BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.85.101, 17.85.103, 17.85.105, 17.85.107, 17.85.110, 17.85.111, 17.85.114, and the adoption of New Rule I pertaining to the Alternative Energy Revolving Loan Program	)	NOTICE OF PROPOSED AMENDMENT AND ADOPTION (ALTERNATIVE ENERGY) NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On August 7, 2006, the Department of Environmental Quality proposes to amend and adopt the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., July 17, 2006, to advise us of the nature of the accommodation that you need. Please contact Kathi Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 841-5243; fax (406) 841-5222; or e-mail kmontgomery@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.85.101 POLICY AND PURPOSE OF RULES (1) Title 75, chapter 25, part 1, MCA, establishes a revolving loan program administered by the department for the purpose of increasing the number of alternative energy systems installed in Montana ~~homes and small businesses~~ that generate energy for the~~ir own~~ use, either off-grid or grid-connected, of the entities listed in Title 75, chapter 25, part 1, MCA. This subchapter provides criteria and guidelines to aid the department in implementing the law, defines eligibility criteria, identifies the processes and procedures for disbursing loans, and prescribes the terms and conditions for making loans, including repayment schedules and interest.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The Legislature amended 75-25-101(1), MCA, in Section 1, Chapter 110, Laws of 2005, to add units of local government, units of the university system, and nonprofit organizations to the list of eligible borrowers. The department proposes to refer to the statute for the list of entities that may obtain loans, rather than list the eligible entities, to eliminate the need to amend the rule in the future to reflect statutory changes.

17.85.103 DEFINITIONS Unless the context requires otherwise, as used in this subchapter:

(1) remains the same.

(2) "Alternative energy system", has the same meaning as defined in 15-32-102, MCA, means the generation system or equipment used to convert energy sources into usable sources using fuel cells that do not require hydrocarbon fuel, geothermal systems, low emission wood or biomass, wind, photovoltaics, geothermal, small hydropower plants under one megawatt, and other recognized nonfossil forms of energy generation.

(3) (5) "Customer-generator", has the same meaning as defined in 69-8-103, MCA, means a user of a net metering system.

(4) and (5) remain the same but are renumbered (5) and (6).

(6) (7) "Low emission wood or biomass combustion device", has the same meaning as defined in 15-32-102, MCA, means a noncatalytic stove or furnace that:

(a) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and

(i) has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department pursuant to 15-32-203, MCA; or

(ii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department pursuant to 15-32-203, MCA; or

(b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department pursuant to 15-32-203, MCA.

(7) (8) "Net metering", has the same meaning as defined in 69-8-103, MCA, means measuring the difference between the electricity distributed to and the electricity generated by a customer-generator that is fed back to the distribution system during the applicable billing period.

(8) (9) "Net metering system", has the same meaning as defined in 69-8-103, MCA, means a facility for the production of electrical energy that:

(a) uses as its fuel solar, wind, or hydropower;

(b) has a generating capacity of not more than 50 kilowatts;

(c) is located on the customer-generator's premises;

(d) operates in parallel with the distribution services provider's distribution facilities; and

(e) is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(8) (11) "Recognized nonfossil forms of energy generation", has the same meaning as defined in 15-32-102, MCA, means:

(a) a system that captures energy or converts energy sources into usable sources, including electricity, by using:

(i) solar energy, including passive solar systems;

(ii) wind;

~~(iii) solid waste;~~
~~(iv) the decomposition of organic wastes;~~
~~(v) geothermal;~~
~~(vi) fuel cells that do not require hydrocarbon fuel; or~~
~~(vii) an alternative energy system;~~
~~(b) a system that produces electric power from biomass or solid wood wastes; or~~
~~(c) a small system that uses water power by means of an impoundment that is not over 20 acres in surface area~~.

(3) "Capital investment" has the same meaning as in Title 15, chapter 32, part 1, MCA.

(4) "Capital investments for energy conservation purposes when done in conjunction with an alternative energy system" means a capital investment that is used for an energy conservation purpose that is in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as, an alternative energy system.

(12) "Small business" means one that is independently owned and operated and that is not dominant in its field of operation.

(10) "Nonprofit organization" means a corporation in good standing that is organized under the Montana Nonprofit Corporation Act, Title 35, chapter 2, MCA, or under an equivalent law of another state if that corporation has registered to do business in Montana.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The 2005 Legislature amended 75-25-101(3), MCA, in Section 1, Chapter 110, Laws of 2005, to expand the types of projects that are eligible for loans under the Alternative Energy Revolving Loan Program (AERLP) to include "capital investments ... for energy conservation purposes ... when done in conjunction with an alternative energy system."

In 75-25-102(1)(a), MCA, the Legislature directed the department to adopt administrative rules defining the phrase "capital investments for energy conservation purposes." Because the Legislature has already defined the terms "capital investment," "energy conservation purposes," and "alternative energy system" in the Montana Revenue Code's provision on tax credits for alternative energy and conservation (see 15-32-102, MCA), and the same definitions would be useful in this section, the department is proposing to adopt those definitions in ARM 17.85.103, which contains definitions of terms used in the AERLP rules. The department believes that it makes sense to use common definitions from a related program so that interpretations will be uniform.

The department is proposing to add a definition in ARM 17.85.103 for the phrase "capital investments ... for energy conservation purposes ... when done in conjunction with an alternative energy system." The department proposes to use the definitions of "capital investments," "energy conservation purposes," and "alternative energy system" just discussed, and is proposing to define "in conjunction with" to

mean "that is in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as, an alternative energy system."

The reason for this proposed addition is that the Legislature directed the department to define the phrase. Also, the department believes that the Legislature intended that the department make loans available for such projects as: building envelope improvements, which would include increasing insulation and reducing leakage; heating/ventilation improvements, which would include purchase and installation of more efficient furnaces, boilers, and fans; and electric load reductions, which would include the purchase and installation of more efficient capital items so that less electricity would be used. Because the Legislature specified that such capital investments for energy conservation purposes could be funded through AERLP loans if done in conjunction with an alternative energy system, the department is proposing a definition of "in conjunction with" that includes a capital investment for energy conservation purposes that is "in the same structure as, and is constructed, installed, or otherwise put in service as part of, or at about the same time as" an alternative energy system.

The department believes that this definition would give effect to the Legislature's intent. For instance, this would allow a loan to be approved for a photovoltaic system (solar panels generating electricity) and more efficient lighting fixtures. Similarly, a loan application for buying and installing a pellet stove to generate heat and increasing insulation to reduce the demand for heat could be approved under this definition. Finally, installation of solar panels to generate electricity, along with insulation to reduce the volume of natural gas needing to be burned in a furnace, could be funded if undertaken at about the same time and in the same building as the solar panels are to be installed.

The reason for this interpretation is that the goal of the AERLP is to make loans to increase the production of alternative energy and to reduce demand for energy by conserving. Funding projects in the same structure as and done as part of, or at about the same time as, an alternative energy system accomplishes that goal. Also, if the borrower is allowed to install a system that reduces demand for energy, the borrower will be likely to save money on energy and have more money available to pay back the loan.

The Legislature, in 75-25-102(1)(a), MCA, directed the department to adopt definitions of "nonprofit" and "small business." The department is proposing definitions that use language commonly used in state and federal statutes to describe such entities. So, a "nonprofit organization" would be defined as an organization existing under the Montana Nonprofit Corporation Act or a similar law from another state. The definition of "small business," as a business that is independently owned and operated and not dominant in its field, is taken from the definition used by the federal Commerce Department's Small Business Administration in 15 U.S.C. 632.

Section (8) was used for two different sections in the current version of ARM 17.85.103, so the department is proposing to renumber the second one to make it correct.

17.85.105 ELIGIBLE PROJECTS (1) remains the same.

(2) To be eligible for funding, a project or portion of a project must be:

(a) and (b) remain the same.

(c) ~~directly related to~~ the construction or installation of an alternative energy system~~s~~ that generate~~s~~ energy through a proven methodology for the sole use of the customer-generator or for net metering, or for capital investments for energy conservation purposes when done in conjunction with an alternative energy system in a ~~residence or small business~~ structure owned by an entity listed in Title 75, chapter 25, part 1, MCA, as an eligible recipient of a loan.

(3) remains the same.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department proposes to amend this rule to have it conform to the current statute, 75-25-101(3), MCA, which was amended by the 2005 Legislature in Section 1, Chapter 110, Laws of 2005, to allow loans for projects owned by additional types of entities (units of local government, units of the university system, and nonprofit organizations) and to allow funding of energy conservation measures done in conjunction with alternative energy projects. The proposed amendments to ARM 17.85.105(2)(c) would allow the department to make loans to the entities and for the types of projects that the Legislature directed.

17.85.107 SIZE OF AWARDS (1) The maximum amount of money that the department may ~~loan~~ lend for a single project or applicant is ~~$10,000~~ the amount set in Title 75, chapter 25, part 1, MCA.

~~(2) The minimum amount of money that the department may loan for a single project or applicant is $2,000.~~

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The proposed amendment to (1) would set the maximum loan amount by reference to the limit set by the Legislature. The 2005 Legislature amended 75-25-101(4), MCA, in Section 1, Chapter 100, Laws of 2005, to increase the maximum loan amount from $10,000 to $40,000. The reason for having the rule refer to the statute for the maximum amount is that the amount would change automatically if the Legislature were to amend the statute. This will save the department from having to propose and adopt amendments to the rule, which can take many months, each time the Legislature amends the statute. The department is proposing to eliminate the minimum amount of a loan in (2). The Legislature did not specify a minimum loan amount. The department believes that a minimum amount is not necessary, and that a minimum loan amount could unnecessarily limit the use of the program.

17.85.110 APPLICATION PROCEDURE (1) An applicant shall submit to the department an application on forms prescribed and made available by the department. An applicant ~~shall submit two copies of the application to the~~

~~department at the time of filing, and~~ shall provide additional copies ~~as~~ upon request~~ed by~~ of the department or its contractor.

(2) remains the same.

(3) ~~An applicant may revise an application after the application is formally filed, but before the department issues a decision on the application by submitting a revision to the department in writing. A substantial revision to an application constitutes a new application.~~ The department may require a new application and fee if the applicant makes substantial revisions to the application.

(4) remains the same.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department is proposing to amend (1) to reduce the amount of paper required to apply for a loan from the program. The department has not been requiring additional copies of application material as it has seldom had more than one person reviewing the application at a time. The proposed rule amendment would allow the department to reduce unnecessary copying and paper consumption by loan applicants and to set an example by reducing waste.

The department is proposing to amend (3) to allow it to require a new application and to charge an additional fee if the applicant makes substantial revisions. This is necessary because substantial changes to the application may require new information and additional review, which can take significant staff or contractor time. It is necessary for the department to be able to obtain the additional information, and to charge enough to pay the costs of the additional review.

17.85.111 APPLICATION EVALUATION PROCEDURE (1) The department shall review each application to determine ~~whether it includes information necessary to begin the evaluation process~~ if it is complete. If the department determines that an application is not ~~substantially~~ complete, the ~~application shall be considered deficient and the~~ department shall ~~return the application to~~ inform the applicant within 30 days after ~~receipt by~~ the department receives the application. The department shall list the application deficiencies in writing. An applicant may re-submit after correcting all identified deficiencies.

(2) through (2)(c) remain the same.

(3) ~~Applications that meet~~ The department, or a third party designated by the department, shall evaluate whether an applicant whose application met the criteria in (2) ~~will be sent to the department's contracted financial institution for credit approval~~ is credit worthy. ~~The financial institution shall evaluate the credit-worthiness of applicants and shall~~ If the evaluation is performed by a third party, that party shall advise the department whether to approve or deny credit. The ~~financial~~ evaluation must be consistent with the standard practices of financial institutions and must consider~~ing~~ the type, size, risk, ~~and~~ repayment period, complexity of the loan requested, ~~and the type of applicant~~ and any other factor the department believes is necessary to meet the loss ratio required in Title 75, chapter 25, part 1, MCA.

(4) ~~After approval by the financial institution~~ When the loan fund reaches a point where there are applications for more money than is available, the department

shall prioritize applications based on the following criteria, which are not necessarily listed in the order of priority:

(a) and (b) remain the same.

(c) investment/return ratio; ~~and~~

(d) the use of a process, a system, or equipment generally available in Montana~~.~~;

(e) the geographical diversity of the project portfolio;

(f) the demographic diversity of the project portfolio; and

(g) any other criterion the department deems appropriate at the time the action is taken.

(5) ~~The department shall award loans in the priority established in (4), subject to the availability of funds.~~ The department shall post the ranking of the criteria listed in (4) on the loan program website and on printed program materials when it becomes necessary to prioritize the award of available funds.

(6) If the department approves an application pursuant to these rules, the department shall indicate its decision to ~~participate in~~ issue a loan by ~~executing~~ authorizing a servicing agreement and the release of funds.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The department proposes to amend (1) to provide applicants ample opportunity to submit the information necessary for it to evaluate each application, while clarifying that the department does not have a duty to process an incomplete application. The department is proposing to use "complete" to describe an application that has all information necessary for the department to make a decision. This is the same definition of "complete" used in the Montana Environmental Policy Act at 75-1-110, MCA, to define what constitutes a "complete application," and the department believes it is appropriate to use the same term and interpretation in the AERLP. The intent of the program is to make the application process as simple as possible and encourage the public to participate fully.

The proposed amendment to (3) would clarify the process the department would use to evaluate credit-worthiness of applicants, and would amend the current rule, which requires the use of a contracted financial institution to evaluate credit-worthiness, to allow the department the flexibility to either conduct the evaluation itself or to use the services of qualified third-party contractors. The addition of the term "Repayment period" is necessary because the length of time over which payments are spread determines the payment amount, which is necessary to determine an applicant's ability to make payments. The phrase "any other factor that the department believes is necessary to meet loss ratios required in Title 75, chapter 25, part 1, MCA" would give the department the ability to use factors that have not yet been encountered if it becomes apparent that such a factor or factors would enhance the department's ability to issue loans in accordance with the intent of the law.

The proposed amendment to (4) is necessary to provide the department with a method to prioritize projects when money sought in applications exceeds available funds, without limiting its ability to fund all appropriate projects until that time. This

would allow the department to fully utilize the funds available to achieve the Legislature's desired impact on the alternative energy industry and on cumulative alternative energy production in the state. The department proposes to add geographic and demographic diversities because the department believes that the legislature intended that the funds be distributed as widely as possible across the state, and to a diverse selection of applicants of the types listed in the statute. The addition of the term "any other criterion the department deems appropriate at the time the action is taken" is necessary to give the department the ability to use criteria that have not yet been encountered if it becomes apparent that such criteria would enhance the department's ability to issue loans in accordance with the intent of the law.

The proposed amendment to (5) is necessary to disclose to the public and applicants the ranking of factors used by the department to prioritize the granting of loans under the AERLP.

The department is proposing to amend (6) to substitute "issue a loan" for "participate in a loan" and to substitute "authorizing a servicing agreement" for "executing a servicing agreement." The reason for these proposed amendments is that the department currently uses a financial contractor to perform many of the tasks associated with the execution of loans, and does not, itself, enter into a servicing agreement with the borrower. It must, however, authorize any servicing agreement entered into by the contractor before it can become effective. The department wishes to be able to issue loans directly, without having to use a contractor. The proposed amendments are necessary to clarify that the department may either issue a loan directly or through a contractor.

The department is proposing to add the phrase "and the release of funds" in (6). The reason for this addition is to clarify that the final step in issuing a loan is to release the funds. The department may release the funds either to the loan applicant directly or to the contractor if one is being used.

17.85.114 LOAN CONDITIONS (1) ~~The maximum term for loans is five years.~~ The repayment period of a loan may be agreed upon by the borrower and the department, but may not exceed the period set forth in Title 75, chapter 25, part 1, MCA.

(2) ~~Loans~~ A borrower shall use the money obtained from a loan made under the Act and these rules ~~must be used~~ only for the purposes described in the loan application. ~~Loan projects must be implemented~~ A borrower shall implement a loan project within the time specified in the loan documents unless the department grants a written extension.

(3) The department may not issue a loan unless the applicant ~~shall~~ financially ~~qualify for the loan~~ qualifies as credit-worthy based on the ~~credit scoring guidelines adopted by the department's contracted financial institution~~ evaluation in ARM 17.85.111(3).

(4) ~~The department shall charge a fixed interest rate that may be set to cover administrative costs, but shall not be less than one percent. The department shall review the interest rate annually.~~ The department shall set the loan interest rate annually in January after evaluating:

(a) current commercial interest rates for similar loans;

(b) administrative costs of the program, including processing and evaluation costs;

(c) loan delinquency and default rates;

(d) the legislature's requirements for a low interest rate and that the rate be at least 1%; and

(e) any other factor the department determines appropriate.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The 2005 Legislature amended 75-25-101(4), MCA, to increase the maximum loan repayment term from five to ten years. See Section 1, Chapter 11, Laws of 2005. The department believes that the Legislature intended for these changes to produce additional energy generation capacity through the AERLP. The department proposes to amend (1) to allow the parties to the loan to negotiate the repayment period, up to the limit set by the Legislature. This is necessary to give the department the flexibility to meet the needs of borrowers within the limits set by law. The department proposes to refer to the statute for the maximum duration of the repayment period rather than to specify the duration in rule. This would allow future amendments by the Legislature of the maximum loan repayment period to take effect automatically without the need for the department to engage in the time-consuming and inefficient process of having to propose an amendment to the rule. This would give applicants the benefits intended by the Legislature without delay.

The department is proposing to amend (2) to use active voice to make the duty clearer.

The proposed amendment to (3) would make that section conform to rule writing standards and adopt active voice for clarity. The proposed amendment is necessary to have the loan approval rule refer to the rule on evaluation of credit-worthiness. The proposed amendment is also necessary to give the department the flexibility to either contract for services or perform the services in-house.

The Legislature has directed the department, in 75-25-102(4), MCA, to establish the loan interest rate at a low rate that may cover the department's administrative costs, but not less than 1%. The department believes it is necessary to amend (4) to establish the factors that it will use to set the rate. Commercial interest rates are relevant to whether the loans are low interest and attractive to the public. The administrative cost of the program is an appropriate factor, because the Legislature has permitted the department to set the rate to cover its administrative costs, and the interest received may be used to cover those costs. Loan delinquency and default rates are appropriate to consider because they will reduce the amount of money available to the program, so the interest rate might have to be raised to provide more income to the program to make up for the loss from default or delinquency. The department is also proposing to allow for use of other appropriate factors to make the annual rate determination flexible and responsive to circumstances that are not yet known.

4. The proposed new rule provides as follows:

NEW RULE I PROGRAM ADMINISTRATION (1) The department may enter into a contract with, and compensate, a third party to perform any of the duties necessary to fulfill the purposes of this subchapter including, but not limited to:

(a) technically review, evaluate, and approve applications;

(b) executive loan agreements;

(c) secure and service loans;

(d) collect loan payments; and

(e) conduct collections for defaulted loans.

(2) The department, or a third party performing services under a contract entered into pursuant to this rule, may charge an applicant or borrower usual and customary fees including, but not limited to:

(a) application fees;

(b) loan origination fees;

(c) delinquency fees; and

(d) costs of collection.

AUTH: 75-25-102, MCA
IMP: 75-25-102, MCA

REASON: The statute, 75-25-102(1)(b) and (2), MCA, allows the department to enlist outside help to administer the program. The proposed rule is necessary to make it clear that the department may contract and pay for services that department employees may not be able to provide to the program, either because the expertise is not available in-house or because there is insufficient staff time available.

The department is proposing to adopt a new provision in (2) that would allow the department, or a third party performing services under contract to the department, to charge fees for applications, loan origination, delinquency, and costs of collection.

Financial and service institutions typically charge these fees to cover their costs. The department wishes to be able to use these kinds of institutions to help administer the AERLP, because it does not currently have the expertise or staffing to administer the program. It has analyzed the costs and revenues of its current contractor, Gateway Economic Development Corporation of Helena, and it believes that these fees are currently necessary to cover the costs of the AERLP. If the department needs those fees to make the program pay its own way, subject to the limits set in 75-25-102(3), MCA, now set at $23,000 or 10% of the total loans issued, it wishes to have the flexibility to charge them. The department is proposing to require that the fees be in amounts and kinds that are usual and customary, because it is reasonable to allow such “normal” fees, and it is reasonable not to allow fees that are not normal.

Since the AERLP began, there have been 31 applications for which the department's contractor has collected $2,000 ($50 for an individual application, and $100 for a joint application). Each application fee charged could affect one or two persons, depending upon the type of application submitted. To date, the department has authorized loans totaling $273,255. Loan origination fees on those loans have totaled $5,465, or 2%. Theoretically, the program could loan out up to $1.4 million, the amount available from the loan fund, on which loan origination fees would total

$28,000. The current loan fund, if completely loaned out, could support 35 loans at the maximum of $40,000, or a larger number of loans at lower amounts. There is no minimum loan amount. Application fees are charged to each applicant, and each application is not necessarily approved and funded, so it is estimated that up to 500 persons could possibly be affected by the fees outlined in this proposed rule, with a total cost of about $25,000 ($50/person) for loan application fees. The fees for delinquency and costs of collection are not easy to estimate; so far, only two loans have had fees assessed against them for delinquency or collection, for a total of $70. The statute (75-25-103, MCA) sets a target for a loan loss ratio of under 5%, so the department and its contractor have strived, successfully, to keep delinquent and defaulted loans under that level. The delinquency and collection fees would be those normal and reasonable in the financial, collection, and legal businesses. A borrower can avoid these fees by paying according to the terms of the loan.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to Kathy Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; fax (406) 841-5222; or e-mail kmontgomery@mt.gov no later than August 3, 2006. To be guaranteed consideration, the comments must be postmarked on or before that date. Written data, views, or arguments may also be submitted electronically via e-mail addressed to kmontgomery@mt.gov no later than 5:00 p.m. August 3, 2006.

6. If persons who are directly affected by the proposed actions wish to express their data, views, and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Kathy Montgomery, Air, Energy, and Pollution Prevention Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; fax (406) 841-5222; or e-mail kmontgomery@mt.gov. A written request for hearing must be received no later than August 3, 2006.

7. If the department receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 50 based on the potential number of loan applicants.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation;

hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Joyce Wittenberg, Director's Office, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to jwittenberg@mt.gov or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North BY: */s/ Richard H. Opper*
JOHN F. NORTH RICHARD H. OPPER, Director
Rule Reviewer

Certified to the Secretary of State, June 26, 2006.